

Official Form 417A (12/23)

FILED
U.S. BANKRUPTCY COURT
WESTERN DISTRICT OF NC

'24 MAY 20 P3:12

[Caption as in Form 416A, 416B, or 416D, as appropriate]

NOTICE OF APPEAL AND STATEMENT OF ELECTION

STEVEN T. SALATA, CLERK

BY: 

Part 1: Identify the appellant(s)

1. Name(s) of appellant(s):
JOHNNY MARCANO
2. Position of appellant(s) in the adversary proceeding or bankruptcy case that is the subject of this appeal:

For appeals in an adversary proceeding.

- ☐ Plaintiff
☐ Defendant
☐ Other (describe) _____

For appeals in a bankruptcy case and not in an adversary proceeding.

- ☐ Debtor
☒ Creditor
☐ Trustee
☐ Other (describe) _____

Part 2: Identify the subject of this appeal

1. Describe the judgment—or the appealable order or decree—from which the appeal is taken:
Denial of Petition
2. State the date on which the judgment—or the appealable order or decree—was entered:
May 13, 2024

Part 3: Identify the other parties to the appeal

List the names of all parties to the judgment—or the appealable order or decree—from which the appeal is taken and the names, addresses, and telephone numbers of their attorneys (attach additional pages if necessary): SEE ATTACHED

1. Party: Anna Cotton Wright Attorney: _____

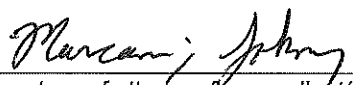
2. Party: U.S. Bankruptcy Courts Attorney: _____

Part 4: Optional election to have appeal heard by District Court (applicable only in certain districts)

If a Bankruptcy Appellate Panel is available in this judicial district, the Bankruptcy Appellate Panel will hear this appeal unless, pursuant to 28 U.S.C. § 158(c)(1), a party elects to have the appeal heard by the United States District Court. If an appellant filing this notice wishes to have the appeal heard by the United States District Court, check below. Do not check the box if the appellant wishes the Bankruptcy Appellate Panel to hear the appeal.

- ☐ Appellant(s) elect to have the appeal heard by the United States District Court rather than by the Bankruptcy Appellate Panel.

Part 5: Sign below



Signature of attorney for appellant(s) (or appellant(s) if not represented by an attorney)

Date: 05/20/24

Name, address, and telephone number of attorney
(or appellant(s) if not represented by an attorney):

Fee waiver notice: If appellant is a child support creditor or its representative and appellant has filed the form specified in § 304(g) of the Bankruptcy Reform Act of 1994, no fee is required.

[Note to inmate filers: If you are an inmate filer in an institution and you seek the timing benefit of Fed. R. Bankr. P. 8002(c)(1), complete Director's Form 4170 (Declaration of Inmate Filing) and file that declaration along with the Notice of Appeal.]

PARTIES TO APPEAL

Case Number - 24-30108

- 1) Amazon Corporate - 410 Terry Ave N Seattle, WA 98109
- 2) Amica Mutual Insurance Company - 100 AMICA CITY Lincoln RE 02865
- 3) Averbury - 2410 Allenton Way Charlotte, NC 28213
- 4) Bluevine - 30 Montgomery Street Jersey City, NJ 07302
- 5) CSL Plasma - 5500 Central Ave Charlotte, NC 28212
- 6) Capital One Auto Finance - 3905 N Dallas Parkway Plano, TX 75093
- 7) Consumer Portfolio Services - 199500 Jamboree Rd Irvine, CA 92612
- 8) DHSI Staffing - 1000 Retail Drive Fortmill, SC 29715
- 9) Amber Lake Apartments, LLC 1015 East Boulevard Charlotte, NC 28203
- 10) Aetna - 151 Farmington Ave Hartford, CT 06156
- 11) Amberlake Apartments LLC - 5826 Reddman Rd Charlotte, NC 28212
- 12) Assurance Wireless - P.O. Box 5040 Charleston, IL 61920
- 13) Bank of America Corporate Center - 100 N Tryon St Charlotte, NC 28202
- 14) Byrider Charlotte - 7401 South Blvd Charlotte, NC 28273
- 15) Caldwell University - 120 Bloomfield Ave Caldwell, NJ 07006
- 16) Chase Bank - 112 S Tryon St STE 100 Charlotte, NC 28284
- 17) Credit One Bank Corporate - 6801 S Cimarron Rd Las Vegas, NV 89113
- 18) Davis Commons - 8415 University Station Cir Charlotte, NC 28269
- 19) U.S. Bankruptcy Administrator Office - 401 W Trade Street Suite 2400
Charlotte, NC 28202
- 20) Allied University Security - 10735 David Taylor Dr Charlotte, NC 28262
- 21) Ambetter - 4349 Easton Way Suite 300 Columbus, OH 43219
- 22) Atrium Health University City - 8800 N Tryon St Charlotte, NC 28262
- 23) Blue Cross and Blue Shield - 9156 S Tryon St Charlotte, NC 28273
- 24) C.R. England - 4701 W 2100 S Salt Lake City, UT 84120

- 25) Capital One - PO Box 30285 Salt Lake City UT 84130
- 26) Coca Cola Bottling Co - 5601 Chesapeake Dr Charlotte, NC 28216
- 27) Crisis Assistance Ministry - 500 Aspinwall St Charlotte, NC 28206
- 28) Dr. Catherine B. Norton M.D. - 7920 Moores Chapel Rd Charlotte, NC 28214
- 29) Dr. Thomas Hunter F - 1718 E 4th St H908 Charlotte, NC 28209
- 30) Dutch Miller Kia - 7725 South Blvd Charlotte, NC 28273
- 31) Ford Basics - 5559 Dundas St W Etobicoke, ON M9B 1B9
- 32) Greif Concho - 2215 Mulberry Rd Concord, NC 28025
- 33) Hendrick Kia - 750 Hendrick Auto Plz NW Concord, NC 28027
- 34) Kickoff - PO Box 28161-2580 Cerillos Road Santa Fe, New Mexico 87505
- 35) Mecklenburg County Sheriff's Office - 700 E 4th St Charlotte, NC 28202
- 36) NC DOR - 301 McCollough Dr Charlotte, NC 28262
- 37) Nevlin Glenn Homeowners - 16501 D Northcross Dr Bantersville, NC 28078
- 38) Novant Health Presbyterian Medical Center - 200 Hawthorne Ln, Charlotte NC 28204

- 39) Drive Time - 3502 Willowrun Dr NE Roanoke, VA 24012
- 40) Ebay Headquarters - 2025 Hamilton Ave San Jose, California 95125
- 41) Forem Facility Management - 2-44 Cornelia St Newark, NJ 07105
- 42) Harris Pavilion - 10425 Winterville Dr Charlotte, NC 28262
- 43) Internal Revenue Service - P.O. Box 73117 Philadelphia, PA 19101
- 44) Major Clean - 448 Springbrook Rd Charlotte, NC 28217-2145
- 45) Morris Jenkins - 13725 S Ridge Dr Charlotte, NC 28273
- 46) NC Division of Employment Security Commission - 700 Wade Ave Raleigh, NC 27605
- 47) Newark Board of Education - 765 Broad St Newark, NJ 07102

- 48) One Main Financial - 601 NW Second Street Evansville, Indiana 47708
- 49) Duke Energy - 526 S Church St Charlotte, NC 28202
- 50) Flagship Credit Acceptance - P.O. Box 3807 Coppell, TX 75019
- 51) Greenway at Mallard Creek - 8230 Greenway Village Dr Charlotte NC 28269
- 52) Hatt Auto Sales - 51 Elizabeth Ave ^{Elizabeth} ~~Elizabeth~~, NJ 07206
- 53) K-MART (Hoffman Estates) - 1900 Hassell Road Hoffman Estates, IL 60169
- 54) Mauser Packaging - 701 Lantorn Rd Charlotte, NC 28216
- 55) Arrow Credit - P.O. Box 1145 Mission, SD 57555
- 56) NC Works Career Center - 8681 McAlpine Park Dr Charlotte NC 28211
- 57) North Carolina Department of Revenue Bankruptcy Unit
P.O. Box 1168 Raleigh, NC 27602
- 58) Onstar Call Center - 10101 Claude Freeman Dr Charlotte, NC 28262
- 59) Optum Bank - P.O. Box 60000 Newark, NJ 07101
- 60) PayPal - 2211 N 1st Street San Jose, CA 95131
- 61) Piedmont Natural Gas - 4339 S Tryon St Charlotte, NC 28217
- 62) Roto Rooter - 255 E 5th St #2500 Charlotte, NC 28202
- 63) Santander Consumer USA - PO Box 660633 Dallas, TX 75266
- 64) Spectrum - P.O. Box 6030 Carol Stream, IL 60197
- 65) Staff Zone - 308 Clanton Road Charlotte, NC 28217
- 66) Syncblower LLC - P.O. Box 91727 Philadelphia, PA 19176
- 67) The Horizon Outlet - P.O. Box 1276 - Indiana, Pennsylvania 15701
- 68) UPS - 55 Glenlake Pkwy NE Atlanta GA 30328
- 69) Paramount Stuffing - 810 Tyvola Rd Charlotte, NC 28217
- 70) Pennsylvania Turnpike Commission - 300 East Park Drive
Harrisburg, PA 17111

71) Primary Residential via Credit Tech RNC-50481 W Pontiac Trail
Wixom, MI 48393

72) Rutgers University - 35 Warren St Newark, NJ 07110

73) Self Inc - 901 E 6th Street Suite 400 Austin, TX 78702

74) Spectrum Mobile - 2415 Sam Wilson Road Charlotte, NC
28214

75) Stanley Community College - 141 College Dr Albemarle, NC 28001

76) Synovus server Flat digital - P.O. Box 85650 Sioux Falls, SD 57118

77) Time Warner Cable - 60 Columbus Circle New York, NY 10027

78) Uber - 1515 Third Street San Francisco, CA 94158

79) Pathward National Association - 5501 S Broadband LN
Sioux Falls, SD 57108

80) People Ready - 141 Sealeybark Rd Charlotte, NC 28209

81) Regent Homes - 8001 Arrowridge Blvd Charlotte, NC 28273

82) Saint Michael School - 27 Crittenden St Newark, NJ 07104

83) Shopify - 151 ^{O'Connor} ~~Stewart~~ Street Ground Floor Ottawa,
ON K2P 2C8

84) Squeez Pro Inc - 904 Brawley School Rd Mooresville, NC 28117

85) Stanton Optical Charlotte - 6865 Albemarle Rd Charlotte, NC 28212

86) T-Mobile CO American Infosource LP - 4515 N Santa Fe
Ave Oklahoma City, OK 73118

87) Trust Science via TSUP Auto - 2875 University Parkway
Lawrenceville, GA 30043

88) University Village of Charlotte - 9915 University Village Blvd
Charlotte, NC 28262

- 89) Urban League of Central Carolinas - 740 W 5th St Charlotte NC 28202
- 90) Wonolo - ~~9450~~ SW Gemini Dr Beaverton, OR 97008
- 91) Westlake Financial - 4751 Wilshire Blvd #100 Los Angeles, CA 90010 3847
- 92) Woodforest Bank - 1330 Lake Robbins Dr Suite 100 The Woodlands, TX 77380
- 93) Wisely Direct - PO Box 9008 San Dimas, CA 91773
- * 94) Anna Cotten Wright - Grier Wright Martinez, PA 521 E Marchhead Street Suite 440 Charlotte, NC 28202
- 95) My ~~Quick~~ Wallet - P.O. Box 1146 Mission, SD 57505
- 96) Capital One - 15000 Capital one Richmond, VA 23238
- 97) T-Mobile - 12920 SE 38th Street Bellevue, WA 98006
- 98) Amier - 100 Amira Way Lincoln, RI 02865
- 99) Self-Financial Inc - 901 E 6th Street Suite 400 Austin, TX 78702

As Legal Representative of JOHNNY MARCANO, I am unable to provide Attorney Information for the aforementioned companies as I was not made privy of such information through the Bankruptcy Courts.

By; Marcan; Johnny For; JOHNNY MARCANO

Johnny Marcano

2525 Lassen Bay Place

Charlotte, North Carolina 28215

9802000376

Johnnymarcan32@gmail.com

05/20/24

United States Bankruptcy Court For The Western District of North Carolina Charlotte Division

401 West Trade Street, Suite 2500, Charlotte, North Carolina 28202

Re: Appeal of Case number 24-30108, Chapter 7

Dear Honorable Whitley:

I, Marcano; Johnny, hereby submit this appeal to the honorable Bankruptcy Court regarding the decision rendered in Case number 24-30108 on May 13, 2024..

I respectfully request the court consider this appeal on the following grounds that I am functioning in the capacity as the Legal Representative on behalf of JOHNNY MARCANO. A legal Representative, even though not a licensed attorney, still has a Fiduciary Duty to his client, which entitles the Legal Representative to Attorney fees under "General Statute 6-21.6" to the prevailing party. I am requesting for all parties named in within the Bankruptcy to pay the attorney fees, as I have submitted a detailed account of all the work and time dedicated to the Estate JOHNNY MARCANO. I am also

submitting a copy of IRS Form 56, and the Trust Certificate that places the Estate under the Trust in which Johnny Marciano is the Grantor, Primary Trustee, and the Beneficiary over the Estate JOHNNY MARCANO. Along with the trust certificate, I have also provided a copy of the Last Will and Testament of JOHNNY MARCANO, that has been filed with the Clerk of Superior Court Mecklenburg County Courthouse 832 E 4th Street Charlotte, NC 28202. As Legal Representative, I did not receive notice of the deficient filing until May 14, 2024. The courts did not grant me a reasonable amount of time to respond to the deficient filing before adverse action was taken and the petition was denied on May 13, 2024, one day before I received notice of the deficient filing of May 8, 2024. This is a clear violation of the court process and JOHNNY MARCANO's right to Due process. Individuals have a right to due process, which includes notice and an opportunity to be heard before any adverse action is taken against them. Being denied before receiving Initial notice raises my concern of due process in the Case 24-30108. I respectfully request that the court consider the arguments and evidence presented in this appeal and grant the relief sought. Thank you for your attention to this matter. I look forward to the court's prompt consideration of this appeal.

By: Marciano; Johnny For: JOHNNY MARCANO

Trust Certificate for The Johnny Marciano Estate

The Grantor of The Johnny Marciano Estate is Johnny Marciano. The Primary Trustee assigned is Johnny Marciano. In the event that Johnny Marciano is unable to be the Primary Trustee, Milita Precious Marciano will be designated as the Acting Trustee. The Beneficiaries of The Johnny Marciano Estate are Johnny Marciano, Delilah Patricia Marciano, Antonia Elena Marciano, and Araelius Omavi Marciano of Charlotte, North Carolina.

Declaration of Trust:

The Main Intention for establishing The Johnny Marciano Estate is to ensure that all Accounts and Assets held under the trust are exempt from entering probate, to maintain control, and to follow all guidelines set within The Johnny Marciano Estate.

The Johnny Marciano Estate was established on April 12, 2024. The governing Jurisdiction of this Trust is South Dakota

The purpose of the trust is to maintain Asset protection, Manage Assets, Estate Planning, maintaining privacy, Family Wealth management, Avoiding Probate, and Adhering to guidelines set forth within the Trust.

Trustees:

- The Primary Trustee is Johnny Marciano. Contact Information is as follows for the primary Trustee: 2525 Lassen Bay place Charlotte, North Carolina 28215. The designated Acting Trustee is Milita Precious Marciano. The contact information for the Acting trustee is 2525 Lassen Bay Place Charlotte, North Carolina 28215.
- Powers and duties of the trustees are as follows:
 - Fiduciary Duty
 - Asset Management
 - Accounting and Reporting
 - Communication
 - Distributions
 - Legal and Tax Compliance
 - Duty of Loyalty

Record-Keeping and Documentation

Prudent Decision-Making

The Limitations or restrictions on trustee powers are:

To follow are guidelines set forth within the trust.

Beneficiaries of the Trust as follows:

Johnny Marcano- Grantor, Primary Trustee, Beneficiary

Delilah Patricia Marcano – Daughter

Araelius Omavi Marcano- Son

Antonia Elena Marcano- Daughter

Upon Death of the Grantor, the aforementioned names will be deemed "The Beneficiaries." "The Beneficiaries" are also residuary beneficiaries. "The Beneficiaries" under eighteen are held under their own trust.

Trust Property:

Johnny Marcano Estate- EIN: 99-6404214

- All assets are managed and distributed by Johnny Marcano.

Signature Johnny Marcano
Primary Trustee

Date: 5/17/24

Signature Melinda P. Johnson
Acting trustee Marcano

Date: 5/17/24

Maria Rodriguez
Witness #1 Name (Please Print)
188 Mill St 2R
Witness #1 Street Address
Belleville, NJ
Witness #1 City, State

Leonardo Marciano
Witness #2 Name (Please Print)
188 Mill St 2R
Witness #2 Street Address
Belleville, NJ
Witness #2 City, State

AFFIDAVIT

I, Johnny Marciano, the Testator, sign my name to this instrument this 20 day of April, 20 24, and being first duly sworn, do hereby declare to the undersigned authority that I sign and execute this instrument as my Last Will and that I sign it willingly (or willingly direct another to sign for me), that I execute it as my free and voluntary act for the purposes expressed in the Last Will, and that I am eighteen (18) years of age or older, of sound mind, and under no constraint or undue influence.

Johnny Marciano
Testator

We, Maria Rodriguez and Leonardo Marciano, the witnesses, sign our names to this instrument, being first duly sworn, and do hereby declare to the undersigned authority that the Testator signs and executes this instrument as the Testator's Last Will and that the Testator signs it willingly (or willingly directs another to sign for the Testator), and that each of us, in the presence and hearing of the Testator, hereby signs this Last Will as witness to the Testator's signing, and that to the best of our knowledge the Testator is eighteen (18) years of age or older, of sound mind, and under no constraint or undue influence.

Maria E. Rodriguez
Witness #1

Leonardo Marciano
Witness #2

STATE OF ~~North Carolina~~ New Jersey
COUNTY OF Hudson

Subscribed, sworn to and acknowledged before me by Johnny Marciano, the Testator, and subscribed and sworn to before me by Maria Rodriguez and Leonardo Marciano, witnesses, this 20 day of April, 20 24.

(Seal)

(Signed) [Signature]

KUSH A PATEL
Notary Public, State of New Jersey
Comm. # 50213600
My Commission Expires 8/28/2028

Form **56**
(Rev. November 2022)
Department of the Treasury
Internal Revenue Service

Notice Concerning Fiduciary Relationship

(Internal Revenue Code Sections 6036 and 6903)

OMB No. 1545-0013

Go to www.irs.gov/Form56 for instructions and the latest information.

Part I Identification

Name of person for whom you are acting (as shown on the tax return)

JOHNNY MARCANO

Identifying number

8796

Decedent's social security no.

8796

Address of person for whom you are acting (number, street, and room or suite no.)

2525 LASSEN BAY Place 28215

City or town, state, and ZIP code (If a foreign address, see instructions.)

Charlotte, NC 28215

Fiduciary's name

Johnny Marcano

Address of fiduciary (number, street, and room or suite no.)

2525 LASSEN BAY Place

City or town, state, and ZIP code

CHARLOTTE, NC 28215

Telephone number (optional)

(980) 200-0376

Section A. Authority

1 Authority for fiduciary relationship. Check applicable box:

- a ☐ Court appointment of testate estate (valid will exists)
b ☐ Court appointment of intestate estate (no valid will exists)
c ☐ Court appointment as guardian or conservator
d ☒ Fiduciary of intestate estate
e ☒ Valid trust instrument and amendments
f ☐ Bankruptcy or assignment for the benefit of creditors
g ☐ Other. Describe: _____

2a If box 1a, 1b, or 1d is checked, enter the date of death: **07/28/2009**

b If box 1c, 1e, 1f, or 1g is checked, enter the date of appointment, taking office, or assignment or transfer of assets: _____

Section B. Nature of Liability and Tax Notices

3 Type of taxes (check all that apply): ☐ Income ☐ Gift ☒ Estate ☐ Generation-skipping transfer ☐ Employment
☐ Excise ☐ Other (describe): _____

4 Federal tax form number (check all that apply): a ☐ 706 series b ☐ 709 c ☐ 940 d ☐ 941, 943, 944
e ☐ 1040 or 1040-SR f ☐ 1041 g ☐ 1120 h ☒ Other (list): **ESTATE FORMS**

5 If your authority as a fiduciary does not cover all years or tax periods, check here ☐
and list the specific years or periods within your authority: _____

For Paperwork Reduction Act and Privacy Act Notice, see separate instructions.

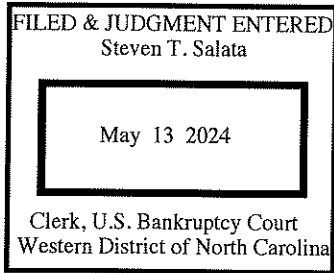
Cat. No. 163751

Form **56** (Rev. 11-2022)

INTERNAL REVENUE SERVICE
W & T - FIELD ASSISTANCE
CHARLOTTE, NC 28262

APR 13 2024

RECEIVED
243101




J. Craig Whitley
United States Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

In re:

JOHNNY MARCANO

Debtor.

Case No. 24-30108
Chapter 7

ORDER DENYING PRO SE DEBTOR'S APPLICATION FOR ATTORNEY'S FEES

THIS MATTER is before the Court on the *pro se* Debtor's Application for Compensation filed May 7, 2024. The Debtor, who is not a licensed attorney, seeks \$260,000 in attorney's fees awarded to himself under "General Statute 6-21.6," which he reports awards attorney's fees to the prevailing party of a contract dispute. He rationalizes this recovery because "[a]ll of the companies named in the Bankruptcy case were all in a contract with JOHNNY MARCANO[sic] and have all violated the security regulations put in place to protect the Consumer (G.S.78A-56)." It is unspecified as to which party he is expecting will pay this sum. Furthermore, the motion did not include a notice of hearing.

The Debtor cannot recover attorney's fees in his own bankruptcy case. Generally, a *pro se* litigant who is *not* a lawyer is not entitled to attorney's fees, even under a fee-shifting statute.

See e.g., Bond v. Blum, 317 F.3d 385, 398-99 (4th Cir. 2003), *modified by sub nom Kirtseng v. John Wiley & Sons, Inc.*, 579 U.S. 1979 (2016); *see also In re Shumate*, 1991 WL 426462 at *3-4 (W.D. Va. 1991) (finding *pro se* Debtor could not award himself compensation under 11 U.S.C. §§ 330:550 due to lack of authorization by Trustee or Court and a lack of benefit to the estate) *aff'd* 976 F.2d 727, 1992 WL 245850 (4th Cir. 1992)(unpublished). Even an attorney cannot be awarded compensation awards from estate funds unless they are “employed by the trustee and approved by the court.” *Lamie v. U.S. Trustee*, 540 U.S. 526, 538-39 (2004). Finally, an application for compensation may only be granted after notice of a hearing or opportunity for hearing. Local Rule 9013-1. This motion was not properly noticed, the Debtor is not a licensed attorney, the Debtor has provided no services benefitting the estate, and the Debtor was not employed or approved by the Trustee and Court. The Debtor has no basis to recover attorney’s fees. For these reasons, the Debtor’s application for compensation is **DENIED**.

SO ORDERED.

**This Order has been signed electronically.
The Judge’s signature and Court’s seal
appear at the top of the Order.**

United States Bankruptcy Court